

OCT 21 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 09-90269 and 10-90043

**ORDER**

**KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge committed misconduct before joining the federal bench. A judge's actions before becoming a federal judge are not cognizable under this misconduct procedure, so this claim must be dismissed. See 28 U.S.C. § 351(a), (d)(1); Judicial-Conduct Rules 4, 11(c)(1)(G); In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. 2009).

Complainant alleges that a second district judge improperly dismissed his civil cases and “intentionally cheat[ed] the Plaintiff of his” constitutional rights. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that this judge was biased against him, favored

the defendant and “conspir[ed] to conceal a false conviction.” But adverse rulings alone aren’t proof of bias or conspiracy, and complainant hasn’t provided any other objectively verifiable proof, so this charge must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainant’s requests that the court “grant him disqualification of [the] judge” and grant him leave to refile his case are not cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h). To the extent complainant makes allegations against his trial counsel, the prosecutor and a state judge, they are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant filed a previous misconduct complaint that was dismissed as conclusory and merits-related. Complainant is cautioned that “a complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

**DISMISSED.**